

ESTTA Tracking number: **ESTTA545241**

Filing date: **06/26/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Sunrider Corporation
Granted to Date of previous extension	06/26/2013
Address	1625 Abalone Avenue Torrance, CA 90501 UNITED STATES
Attorney information	ELIZABETH A LINFORD LADAS & PARRY LLP 5670 WILSHIRE BLVD Suite 2100 Los Angeles, CA 90036 UNITED STATES elinford@la.ladas.com Phone:323-934-2300

Applicant Information

Application No	85650359	Publication date	02/26/2013
Opposition Filing Date	06/26/2013	Opposition Period Ends	06/26/2013
Applicant	Cellco Partnership VC52N058 One Verizon Way Basking Ridge, NJ 079201097 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Wireless telecommunications device featuring transmission of voice, data, image and video, including voice, text, picture and video messaging, Internet access, access to navigation and directional services over the air, the ability to download music, videos and applications over the air, and equipped with a music player and a still image and video camera

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1972103	Application Date	08/31/1993
Registration Date	05/07/1996	Foreign Priority	NONE

		Date	
Word Mark	SUNRIDER		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 cosmetics, namely, make-up, eye liner, foundations, powders, eye pencils, liquid eyeliners, lip liner pencils, mascaras, lipsticks, skin concealers, eye shadows, and blushes; cosmetic kits, comprised of hair, face and body lotions and creams, nail polishes, and nail lotions, make-up, eyeliner, foundations, powders, eye pencils, liquid eyeliners, lip liner pencils, mascara, lipstick, skin concealers, eye shadows and blushes including hair, face and body lotions, nail polishes and nail lotions; essential oils for personal use; skin and body lotions; skin and body creams; skin and body gels; sun protection creams; shampoos; hair conditioners; [hair rinses;] mouthwash, toothpaste, [toothpowder,] hair styling gels; hair sprays, hair styling glaze; cosmetic cleansing cream; cosmetic cleansing foam; cosmetic masks; personal deodorants; breath freshener; lip gloss; lip balm; nail lacquer; nail gloss; nail base; finger nail polish; nail topcoats; personal soaps; [permanent wave;] shaving soaps; after shave; hair mousse; [hair tonic;] shaving cream; shaving gel; breath fresheners, namely, mouth drops and mouth lozenges</p> <p>Class 005. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 astringents for [medical] * HEALTH * use; food supplements; nutritional supplements, namely, health bars; herbal powders; vitamins, herbal supplements and minerals supplements in all forms including tablets, capsules, liquids and powder; dietary food supplements; dietary supplements; fiber supplements; nutritional powder; teas for [medicinal] * health * purposes; nutritional supplements, namely, acidophilus; herb food concentrates; mouth drops; nutritional fiber bars; chlorophyll electrolyte drinks; [bee pollen for nutritional uses; and alfalfa for nutritional uses;] all for health purposes</p> <p>Class 008. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 [nail buffer]</p> <p>Class 009. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 [educational and promotional video tapes, audio and video tapes, slides, films,] compact discs [and video cassettes all] in the field of health, nutrition, foods, dietary supplements and cosmetics</p> <p>Class 016. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 posters; stationery; envelopes; writing [and wrapping] paper; applications forms; order forms; post cards; paper shopping bags; [self adhesive note pads; note pads; greeting cards and] business cards; [pencils;] pens; educational and promotional magazines, brochures, catalogs, printed product and packaging inserts and flyers, company related books, booklets, handbooks, notebooks, and workbooks all in the field of nutrition, food, dietary supplements and cosmetics markers; [paper clips;] boxes made of cardboard and paper; [and personal and desktop organizers] leather checkbook covers and cases</p> <p>Class 018. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 briefcases; [suitcases;] travel bags; umbrellas; make-up bags sold empty; totebags; [wallets;] bags, namely, handbags and purses; back packs; and fanny packs]</p> <p>Class 021. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 cosmetic brushes; [hair brushes; hair combs;] face powder brushes; rouge brush; eye brush; lip brush; body brush; [; shaving brush]</p> <p>Class 025. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 [belts for clothing]</p>		

	<p>Class 026. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 [belt buckles not of precious metals for clothing]</p> <p>Class 029. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 freeze dried fruits; processed fruits; dried fruits; processed food, namely, fruit bars; processed vegetables; fruit-based snacks; processed edible seeds; processed nuts; [soups;] [and edible oils] blends of processed fruits and herbs</p> <p>Class 030. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 herbal teas for food purposes; cereal-derived food [and dessert] bars; [candy bars;] cereal-based snacks; processed cereal and processed grains; fruit teas; and grain bars herb based snack bars and blends of processed herbs</p> <p>Class 032. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 fruit and vegetables juices and drinks; soft drinks and preparation for making herbal soft drinks; bottled water and spring water</p> <p>Class 042. First use: First Use: 1985/00/00 First Use In Commerce: 1986/00/00 distributorship services in the fields of herbal products, fitness and well being</p>
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U.S. Registration No.	1972104	Application Date	08/31/1993
Registration Date	05/07/1996	Foreign Priority Date	NONE
Word Mark	SUNRIDER		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 cosmetics, namely make-up, eye liner, foundations, powders, eye pencils, liquid eyeliners, lip liner pencils, mascaras, lipsticks, skin concealers, eye shadows, and blushes; cosmetic kits, comprised of hair, face and body lotions and creams, nail polishes, and nail lotions, make-up, eyeliner, foundations, powders, eye pencils, liquid eyeliners, lip liner pencils, mascara, lipstick, skin concealers, eye shadows and blushes including hair, face and body lotions, nail polishes and nail lotions; essential oils for personal use; skin and body lotions; skin and body creams; skin and body gels; sun protection creams; shampoos; hair conditioners; [hair rinses;] mouthwash, toothpaste, [toothpowder,] hair styling gels; hair sprays, hair styling glaze; cosmetic cleansing cream; cosmetic cleansing foam; cosmetic masks; personal deodorants; breath freshener; lip gloss; lip balm; nail lacquer; nail gloss; nail base; finger nail polish; nail topcoats; personal soaps; [permanent wave;] shaving soaps; after shave; hair mousse; [hair tonic;] shaving cream; shaving gel; breath fresheners, namely mouth drops and mouth lozenges</p> <p>Class 005. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 astringents for [medical] * HEALTH * use; food supplements; nutritional supplements, namely, health bars; herbal powders; vitamins, herbal supplements and minerals supplements in all forms including tablets, capsules, liquids and powder; dietary food supplements; dietary supplements; fiber supplements; nutritional powder; teas for [medicinal purposes] * HEALTH purposes *; nutritional supplements, namely, acidophilus; herb food concentrates; mouth drops; nutritional fiber bars; chlorophyll electrolyte drinks; [bee pollen for nutritional uses; and alfalfa for nutritional uses;] all for health purposes</p> <p>Class 008. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 nail buffer</p> <p>Class 009. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00</p>		

	<p>[educational and promotional video tapes, audio and video tapes, slides, films,] compact discs [and video cassettes all] in the field of health, nutrition, foods, dietary supplements and cosmetics</p> <p>Class 016. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 posters; stationery; envelopes; writing [and wrapping] paper; applications forms; order forms; post cards; paper shopping bags; [self adhesive note pads; note pads; greeting cards and] business cards; [pencils;] pens; educational and promotional magazines, brochures, catalogs, printed product and packaging inserts and flyers, company related books, booklets, handbooks, notebooks and workbooks all in the field of nutrition, food, dietary supplements and cosmetic markers; [paper clips;] boxes made of cardboard and paper; [and personal and desktop organizers] leather checkbook covers and cases</p> <p>Class 018. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 briefcases; [suitcases;] travel bags; umbrellas; make-up bags sold empty; totebags; [wallets;] bags, namely, handbags and purses[; back packs; and fanny packs]</p> <p>Class 021. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 cosmetic brushes; [hair brushes; hair combs;] face powder brushes; rouge brush; eye brush; lip brush[; body brush] [; shaving brush]</p> <p>Class 025. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 [belts for clothing]</p> <p>Class 026. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 [belt buckles not of precious metals not for clothing]</p> <p>Class 029. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 freeze dried fruits; processed fruits; dried fruits; processed food, namely, fruit bars; processed vegetables; fruit-based snacks; processed edible seeds; processed nuts; [soups;] [and edible oils] blends of processed fruits and herbs</p> <p>Class 030. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 herbal teas for food purposes; cereal-derived food [and dessert] bars; [candy bars;] cereal-based snacks; processed cereal and processed grains; fruit teas; and grain bars herb based snack bars and blends of processed herbs</p> <p>Class 032. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 fruit and vegetables juices and drinks; [soft drinks and] preparation of making herbal soft drinks; bottled water and spring water</p> <p>Class 042. First use: First Use: 1985/00/00 First Use In Commerce: 1986/00/00 distributorship services in the fields of herbal products, fitness and well being</p>
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U.S. Registration No.	2330499	Application Date	11/12/1996
Registration Date	03/21/2000	Foreign Priority Date	NONE
Word Mark	SUNRIDER VITAFRUIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1993/12/00 First Use In Commerce: 1993/12/00 herbally-based concentrates to be mixed as a drink		

U.S. Registration No.	2271322	Application Date	11/21/1996
Registration Date	08/24/1999	Foreign Priority Date	NONE

Word Mark	SUNRIDER-SIMPLY THE BEST
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1996/07/00 First Use In Commerce: 1996/07/00 training services, namely, conducting classes, workshops, seminars and conventions directed to distributors of nutritional and body products, wearing apparel, paper goods and tote items

U.S. Registration No.	2281843	Application Date	11/12/1996
Registration Date	09/28/1999	Foreign Priority Date	NONE
Word Mark	SUNRIDER VITAFRUIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1993/12/00 First Use In Commerce: 1993/12/00 herbally-based nutritional supplements for health purposes		

U.S. Registration No.	3674233	Application Date	08/08/2008
Registration Date	08/25/2009	Foreign Priority Date	NONE
Word Mark	SUNRIDER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/10/00 First Use In Commerce: 2001/10/00 DVD's in the fields of health, nutrition, foods, dietary supplements and cosmetics Class 025. First use: First Use: 1984/01/00 First Use In Commerce: 1984/01/00 Polo shirts, t-shirts and neckties		

U.S. Registration No.	3674235	Application Date	08/08/2008
Registration Date	08/25/2009	Foreign Priority Date	NONE
Word Mark	SUNRIDER		
Design Mark			
Description of Mark	The mark consists of the word "SUNRIDER" below a circle device which is cross-sected by five horizontal lines.		
Goods/Services	Class 009. First use: First Use: 2001/10/00 First Use In Commerce: 2001/10/00 DVD's in the fields of health, nutrition, foods, dietary supplements and cosmetics Class 025. First use: First Use: 1984/01/00 First Use In Commerce: 1984/01/00 Polo shirts, t-shirts and neckties		

Attachments	Not of Opp SUNRIDER 85650359.pdf(226530 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/elizabeth a linford/
Name	ELIZABETH A LINFORD
Date	06/26/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of:

Application Serial No. 85/650359

Mark: SUNRIDER

Class: 009

Applicant: Cellco Partnership

Filed: June 13, 2012

Published in the *Official Gazette*: February 26, 2013

THE SUNRIDER CORPORATION,

Opposer,

v.

CELLCO PARTNERSHIP
DBA VERIZON WIRELESS

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION


THE SUNRIDER CORPORATION, a corporation organized and existing under the laws of the State of Utah d/b/a Sunrider International, with an address of 1625 Abalone Avenue, Torrance, California 90501 (“Opposer”), believes it will be damaged by the registration of the mark SUNRIDER, as displayed in Trademark Application Serial No. 85/650359 (“Applicant’s Mark”), in the name of CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, a partnership organized and existing under the laws of the State of Delaware with an address of CV52N058 One Verizon Way, Basking Ridge, New Jersey 07920-1097 (“Applicant”), and by and through its attorneys, hereby opposes the same.

Applicant's Mark was published for opposition in the *Official Gazette* dated February 26, 2013. On March 28, 2013, Opposer requested and was granted a 90-day extension to file a Notice of Opposition through June 26, 2013. Thus, this Notice of Opposition challenging the registration of Applicant's Mark is timely filed.

The grounds for opposing registration of Applicant's Mark are as follows:

1. Opposer is the owner of the mark SUNRIDER, which has been registered in various forms in the United States and around the world. The mark has been in use in interstate commerce since 1982 and serves as a distinctive house mark identifying Opposer and its expansive line of goods and services.

2. Opposer is the owner of the following U.S. Trademark Registrations for the mark SUNRIDER or marks incorporating the distinctive term SUNRIDER (collectively, "Opposer's Marks"):

Trademark Registration No. 1,972,103 for  **SUNRIDER**


Trademark Registration No. 1,972,104 for **SUNRIDER**

Trademark Registration No. 2,330,499 for **SUNRIDER VITAFRUIT**

Trademark Registration No. 2,271,322 for **SUNRIDER-SIMPLY THE BEST**

Trademark Registration No. 2,281,843 for **SUNRIDER VITAFRUIT**

Trademark Registration No. 3,674,233 for **SUNRIDER**

Trademark Registration No. 3,674,235 for  **SUNRIDER**

3. The registrations identified in Paragraph 2 cover a multitude of goods and services, with many covering audio and video goods in Class 9 (collectively, “Opposer’s Goods and Services”).

4. U.S. Trademark Registration Nos. 2281843, 2271322, 2330499, 1972104, and 1972103 have each been deemed incontestable by the United States Patent and Trademark Office, are each valid and subsisting and are evidence of Opposer’s exclusive right to use the mark SUNRIDER without interference.

5. U.S. Trademark Registration Nos. 3674233, 3674235, 2281843, 2271322, 2330499, 1972104 and 1972103 are in full force and effect, and Opposer’s Marks have never been abandoned and are widely recognized around the world as representing Opposer and the source of origin of Opposer’s expansive range of goods and services.

6. Opposer has continuously used the mark SUNRIDER and marks incorporating the term SUNRIDER to promote Opposer’s Goods and Services in interstate commerce and around the world since at least as early as 1982 and long before any date of use upon which Applicant can rely.

7. Sales of Opposer’s Goods and Services have continuously increased since adoption of the mark SUNRIDER and, by virtue of the excellent quality thereof, Opposer has acquired a strong worldwide reputation among consumers and industry professionals alike and has developed substantial and valuable goodwill in the SUNRIDER mark.

8. Since adoption of the house mark SUNRIDER in 1982, Opposer has extensively sold and promoted Opposer’s Goods and Services in interstate commerce and has devoted substantial time, money and effort in the establishment and maintenance of high standards of quality for such goods and services.

9. Opposer’s Marks, by virtue of their wide renown, have developed secondary meaning and significance in the minds of the trade and the purchasing public, such that the purchasing public immediately associates Opposer’s Marks with The Sunrider Corporation.

Opposer's Marks have become well known due to widespread recognition of the SUNRIDER brand throughout the world, Opposer's extensive efforts to promote Opposer's Goods and Services, including sponsorships, charitable ventures and licensing arrangements with third parties, and Opposer's corporate efforts to continually update and expand the scope of goods and services offered under SUNRIDER.

10. In addition to using the SUNRIDER mark on the goods and services identified in Paragraph 3 herein, Opposer has also for many years used, promoted and advertised SUNRIDER as a house mark, using the mark in conjunction with a variety of other marks owned by Opposer.

11. Since its first use in 1982, Opposer and its related companies have continually and successfully expanded their already wide offering of goods and services to include jewelry, restaurant services, hotel services, spa services, air purification devices and water purification devices. Due to its success in expanding beyond its original scope of goods and services over the years, Opposer has created a successful lifestyle brand in the mark SUNRIDER.

12. Opposer is continually working to expand the commercial scope of the SUNRIDER brand to include the offering of goods and services that are distinct from the core business of manufacturing and distributing nutritional and dietary supplements, nutritional foods and beverages, and personal care items.

13. Upon information and belief, Opposer's rights in Opposer's Marks were established prior to any rights claimed by Applicant in Applicant's Mark.

14. Notwithstanding Opposer's prior rights in and to Opposer's Marks, Applicant applied to register the mark SUNRIDER on June 13, 2012 under Application Serial No. 85/650359 for "[w]ireless telecommunications device featuring transmission of voice, data, image and video, including voice, text, picture and video messaging, Internet access, access to navigation and directional services over the air, the ability to download music, videos and applications over the air, and equipped with a music player and a still image and video camera" in Class 9 (hereinafter, "Applicant's Goods").

15. Applicant's Mark is identical to Opposer's Marks in terms of sight, sound, and commercial connotation.

16. When applied to Applicant's Goods in Class 9, Applicant's Mark is likely to cause confusion, to cause mistake or to deceive the relevant public as to the source of such goods, thereby causing irreparable damage to Opposer, Opposer's Marks and Opposer's longstanding business.

17. Because Opposer is continually expanding the scope of use of Opposer's Marks, under the doctrine of natural expansion, consumers will likely believe that use of the mark SUNRIDER in Class 9 on telecommunication devices is sponsored by or associated with Opposer or that the source of such goods originates with Opposer, thereby causing irreparable damage to Opposer and Opposer's longstanding business.

18. Applicant's proposed use and registration of Applicant's Mark will dilute the distinctive significance of Opposer's Marks that currently identify a single source of goods and services, thereby causing irreparable damage to Opposer and its longstanding marks.

19. Opposer has superior rights in Opposer's Marks, as compared to Applicant, and Opposer has used such marks in commerce continuously from a date long prior to the filing date of Trademark Application Serial No. 85/650359. Consequently, confusion, mistake and/or deception in the trade and among consumers are likely to occur, thereby causing irreparable damage to Opposer and Opposer's Marks.

* * *

WHEREFORE, Opposer will be damaged by the registration of Applicant's Mark and hereby requests that this Notice of Opposition be sustained and that Trademark Application Serial No. 85/650359 be denied registration.

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Opposer herewith submits the filing fee in the amount of \$300 to oppose this single-class application.

**CERTIFICATE OF ELECTRONIC
TRANSMISSION**

I hereby certify that a copy of the foregoing
NOTICE OF OPPOSITION is being electronically
transmitted to the United States Patent and Trademark
Office on the date indicated below:

Dated: June 26, 2013



Signature

Elizabeth A. Linford

(Typed or Printed Name of Person Signing Certificate)

Respectfully submitted,

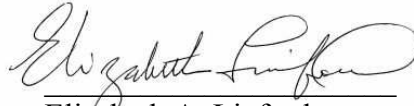
By: 
Elizabeth A. Linford
LADAS & PARRY LLP
Attorneys for Opposer
5670 Wilshire Blvd., Ste. 2100
Los Angeles, CA 90036
Tel: 323-934-2300
Fax: 323-934-0202
Email: elinford@la.ladas.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Applicant's counsel identified on this 26th day of June 2013 via First Class Mail, postage prepaid to:

PAUL J. REILLY, ESQ.
BAKER BOTTS LLP
30 ROCKEFELLER PLZ FL 44
NEW YORK, NEW YORK 10112-0015

Date: June 26, 2013


Elizabeth A. Linford